

ORDINANCE
OF THE MAYOR AND COUNCIL OF THE TOWN OF KENSINGTON AMENDING
CHAPTER VI, ARTICLE I, “SIGNS AND SOLICITORS”, SECTIONS 6-101, “SIGNS AND
BILLBOARDS”; 6-102 “TOWN SIGN PERMIT REQUIRED”; 6-103, “SIGNS IN THE PUBLIC
RIGHT OF WAY”; AND 6-104 “SIGNS ON PRIVATE PROPERTY” TO CLARIFY THE
TYPES OF SIGNS THAT ARE PERMITTED ON PRIVATE PROPERTY AND IN PUBLIC
RIGHTS OF WAY AND TO MAKE CONFORMING CHANGES.

WHEREAS, pursuant to §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, the Town of Kensington (hereinafter, the “Town”) has the power to pass such ordinances as it deems necessary to protect the health, safety and welfare of the citizens of the municipality and to prevent and remove nuisances; and

WHEREAS, pursuant to the Land Use Article, Annotated Code of Maryland the Town is authorized to adopt additional or stricter commercial sign regulations than are otherwise imposed by the State, the Maryland National Capital Park and Planning Commission, or Montgomery County; and

WHEREAS, the Mayor and Council have determined that it is in the public interest and will promote the preservation, improvement and redevelopment of the Town’s commercial areas to adopt certain commercial sign regulations; and

WHEREAS, the Mayor and Council have determined that clarification of Section 6-103 is required.

Section 1. NOW THEREFORE, BE IT ORDAINED AND ENACTED, by the Mayor and Council of the Town of Kensington, Maryland that Chapter 6, “Signs and Commercial Regulations” Article 1 “Signs and Solicitors”, Section 6-101 “Signs and Billboards” of the Code of the Town of Kensington be, and is hereby, repealed and re-enacted with amendments to read as follows:

CAPS

[Brackets]

Asterisks * * *

: Indicate matter added to existing law.

: Indicate matter deleted from law.

: Indicate matter remaining unchanged in existing law but not set forth in Ordinance

CHAPTER VI

SIGNS AND COMMERCIAL REGULATIONS

Article I Signs and Solicitors

Section 6-101 Signs [~~and Billboards~~]

(a) The Town shall have the power to enforce, and incorporates by reference herein as if fully set forth, the provisions of Chapter 59, Article F of the Montgomery County Code, as amended, entitled "Signs" [which provides for the regulation of same], except as otherwise provided HEREIN [~~in this Code~~]. THIS ARTICLE IS AN EXCEPTION TO THE GENERAL EXEMPTION FROM COUNTY LAW CONTAINED IN SECTION 1-202 OF THIS CODE.

(b) [~~Article 23A of the Annotated Code of Maryland provides that municipalities may make regulations for various purposes including signs.~~] THE PURPOSE OF SECTIONS 6-101 THROUGH 6-104 OF THIS ARTICLE IS TO REGULATE THE LOCATION, SIZE, PLACEMENT AND CERTAIN FEATURES OF SIGNS PLACED FOR PUBLIC VIEW. THESE REGULATIONS ARE INTENDED TO PROTECT THE PUBLIC HEALTH, SAFETY, COMFORT AND WELFARE, TO ENABLE THE PUBLIC TO LOCATE GOODS, SERVICES AND FACILITIES WITHOUT DIFFICULTY, DANGER OR CONFUSION, TO PREVENT HAZARDS TO LIFE AND PROPERTY, TO PRESERVE AND STRENGTHEN THE CHARACTER OF THE TOWN AND TO PROTECT PROPERTY VALUES.

(c) The following sections contain additional requirements that supplement portions of Chapter 59, Article F of the Montgomery County Code[~~-I~~] AND, In cases of conflict, [~~the following sections~~] shall supersede and take precedence over Chapter 59, Article F of the Montgomery County Code.

Section 2. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the Town of Kensington that, Chapter 6, "Signs and Commercial Regulations" Article 1 "Signs and Solicitors", Section 6-102 "Town Sign Permit Required" of the Code of the Town of Kensington be, and is hereby, repealed and re-enacted with amendments to read as follows:

Section 6-102. Town Sign Permit Required

(a) It shall be unlawful to erect, construct, LOCATE, PLACE or alter ANY sign, or part thereof, INCLUDING INTERIOR WINDOW SIGNS, without first obtaining a sign permit from the Town. A PERMIT Application [~~therefore~~], together with a copy of plans and specifications for the work AND ANY REQUIRED FEE, shall be filed with the [~~Clerk-Treasurer~~] TOWN MANAGER OR DESIGNEE, who shall issue a permit [~~at the discretion of the Building Inspector and Mayor~~] IN ACCORDANCE WITH THE PROVISIONS OF THE TOWN CODE. BY APPLICATION FOR A SIGN PERMIT THE APPLICANT AND OWNER GIVE CONSENT TO THE TOWN MANAGER OR DESIGNEE TO ENTER ONTO THE

PROPERTY TO INSPECT ANY ACTIVITY ENCOMPASSED IN THE PERMIT AS OFTEN AND AT SUCH TIMES AS DEEMED NECESSARY DURING THE COURSE OF THE ACTIVITY TO ENSURE COMPLIANCE WITH THIS CHAPTER AND OTHER APPLICABLE LAW.

(b) The permitting requirements of this Chapter do not exempt any APPLICANT [~~person, firm, organization, or corporation~~] from obtaining proper permits from Montgomery County as required by County law.

(c) Permit fees shall be set by resolution of the Council.

Section 6-103. Signs in the Public Right-of-Way

(a) Except as otherwise provided herein, it shall be unlawful to display or post any sign in a public right of way under the Town's jurisdiction.

(b) It shall be unlawful to attach any otherwise lawful sign to utility poles, trees, fences or other signs in the public right of way.

(c) It shall be lawful to post or mount in the public right of way for up to 24 hours (48 hours on weekends) only, limited durations signs announcing yard, garage or estate sales; special events open to the public; or real estate open house directions. The minimum time between lawful postings OF SIGNS shall be five (5) days. All such signs posted for more than 24 hours (48 hours on weekends) shall be considered a nuisance and are removable without notice by a public or governmental official at anytime thereafter, unless said signs have been authorized to remain by the Town government. [~~Lawful postings~~] PERMITTED SIGNS may not be installed OR REMOVED [~~by glue or other means, which would leave residue on the substrate after the posting has been removed~~] IN A MANNER THAT WILL CAUSE DAMAGE TO THE RIGHT OF WAY. PERMITTED SIGNS [~~Lawful postings~~] may not block or obstruct any permanent signage nor may they obstruct pedestrian or vehicular traffic or sightlines.

(d) Any otherwise lawful sign required by law or regulation, and signs used by a government agency or utility company erected by, or on the order of, a public officer or utility official in the performance of official duties, such as controlling traffic, identifying streets, warning of danger, or providing information, is exempt from this section.

Section 3. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the Town of Kensington that, Chapter 6, "Signs and Commercial Regulations" Article 1 "Signs and Solicitors", Section 6-103 "Signs in the Public Right-of-Way" of the Code of the Town of Kensington be, and is hereby, repealed and re-enacted with amendments to read as follows:

Section 6-103. Signs in the Public Right-of-Way.

(a) Except as otherwise provided herein, it shall be unlawful to display or post any sign in a public right of way under the Town's jurisdiction.

(b) It shall be unlawful to attach any otherwise lawful sign to utility poles, trees, fences or other signs in the public right of way.

(c) It shall be lawful to post or mount in the public right of way for up to 24 hours (48 hours on weekends) only, limited durations signs announcing yard, garage or estate sales; special events open to the public; or real estate open house directions. The minimum time between lawful postings OF SIGNS shall be five (5) days. All such signs posted for more than 24 hours (48 hours on weekends) shall be considered a nuisance and are removable without notice by a public or governmental official at anytime thereafter, unless said signs have been authorized to remain by the Town government. ~~[Lawful postings]~~ PERMITTED SIGNS may not be installed OR REMOVED ~~[by glue or other means, which would leave residue on the substrate after the posting has been removed]~~ IN A MANNER THAT WILL CAUSE DAMAGE TO THE RIGHT OF WAY. PERMITTED SIGNS ~~[Lawful postings]~~ may not block or obstruct any permanent signage nor may they obstruct pedestrian or vehicular traffic or sightlines.

(d) Any otherwise lawful sign required by law or regulation, and signs used by a government agency or utility company erected by, or on the order of, a public officer or utility official in the performance of official duties, such as controlling traffic, identifying streets, warning of danger, or providing information, is exempt from this section.

Section 4. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the Town of Kensington that, Chapter 6, "Signs and Commercial Regulations" Article 1 "Signs and Solicitors", Section 6-104 "Signs on Private Property" of the Code of the Town of Kensington be, and is hereby, repealed and re-enacted with amendments to read as follows:

Section 6-104. Signs on Private Property.

(a) ~~[Intent — The purpose of the requirements set forth in this section which regulate the location, size, placement and certain features of signs is to enable the public to locate goods, services and facilities without difficulty, danger or confusion, to prevent hazards to life and property and to assure the continued attractiveness of the Town and the protection of property values.]~~

~~[(b)]~~ Comprehensive Signage Plan Required – BEFORE A PERMIT MAY BE ISSUED UNDER THIS ARTICLE, For properties occupied by more than one (1) business/tenant, A SIGNAGE PLAN MUST BE FILED DEMONSTRATING that each sign for WHICH A PERMIT IS REQUESTED ~~[individual business/tenants shall be]~~ IS consistent and harmonious in terms of LOCATION, design, color, shape, size, style, material, and mounting with all other such signs on the PROPERTY ~~[building/center]~~. Signs for individual businesses/tenants in a multi-tenanted building shall be placed only on the pedestrian levels of the

building. A SIGNAGE PLAN [~~proposal~~] for the entire [~~building/center~~] PROPERTY shall be submitted by the owner prior to the issuance of the first sign permit FOR THE PROPERTY.

(B)~~fe~~ Prohibited Signs - The following sign types are prohibited:

- [~~Plexiglas face signs;~~] INTERIOR AND EXTERIOR NEON SIGNS
- BOX SIGNS WITH FLAT GRAPHICS
- Pole (freestanding) signs, except when located at retail shopping centers and grocery stores with greater than one hundred (100) parking places. [~~Refer to the Montgomery County Sign Ordinance under "freestanding signs" for size, placement, height, and other limitations.~~] Retail shopping centers and grocery stores will be allowed only one pole sign each;
- Ground (freestanding) signs exceeding six (6) feet in height or fifty (50) square feet in area. [~~Refer to the Montgomery County Sign Ordinance under "freestanding signs" for placement and other limitations.~~] Only one ground sign shall be permitted per recorded ED lot;
- Freestanding (pole and ground) signs that do not include a landscaped area at the base of the freestanding sign measuring a minimum of two (2) square feet for each square foot of sign area;
- Internally illuminated signs (except as provided [~~below~~] HEREIN);
- Off-site signage (signs advertising products, or businesses OR OTHER ACTIVITY not related to the site, building, or property on which they are located) NOT CONNECTED WITH A USE THAT IS LAWFULLY OCCURRING ON THE PROPERTY WHERE THE SIGN IS LOCATED;
- Portable OR temporary SIGNS [~~for A-frame type signs~~] or message boards.
- A-FRAME TYPE SIGNS OR SANDWICH SIGNS UNLESS THEY MEET THE FOLLOWING CONDITIONS:
 1. CAN ONLY BE UTILIZED DURING THE HOURS OF OPERATION, ON THE SITE WHERE THE BUSINESS IS LOCATED, AND MUST BE REMOVED AT THE CLOSE OF BUSINESS EACH DAY;
 2. CANNOT EXCEED SIX (6) SQUARE FEET PER SIDE, REGARDLESS OF HOW CONNECTED OR VIEWED AND CAN ONLY BE CONSTRUCTED OF WOOD AND CHALK OR DRY ERASE BOARD MATERIAL;
 3. CANNOT BE PLACED IN THE PUBLIC RIGHT-OF WAY AND MUST PROVIDE A CLEAR UNOBSTRUCTED PATH FOR USE BY PEDESTRIANS TO AND FROM THE ESTABLISHMENT AND MUST MEET THE AMERICANS WITH DISABILITIES ACT REQUIREMENTS; AND

4. MUST BE CONSTRUCTED AND ANCHORED IN A MANNER TO ACHIEVE WIND GRADE CERTIFICATION.

EXAMPLES OF ACCEPTABLE A-FRAME SIGNS ARE ATTACHED AS FIGURE 1.

~~[(f)]~~ C. Allowable Signage Calculations – Signage calculations shall include window signage of all types including INTERIOR WINDOW AND EXTERIOR SIGNS AND PERMITTED neon signs. Symbols, letters and logos count towards total signage. Properties abutting or confronting residential property shall be limited to one (1) square foot of signage for each lineal foot of building frontage

(d) Illumination (External) - Exterior sign illumination shall be discrete, uniform, and compatible with the architecture of the structure. The light source shall only illuminate the sign and shall not glare, reflect, or shine onto public ways, streets, park areas, or residential properties. SIGN ILLUMINATION MUST USE AN ENCLOSED LAMP DESIGN OR INDIRECT LIGHTING FROM A SHIELDED SOURCE IN A MANNER THAT PREVENTS GLARE FROM BEYOND THE PROPERTY LINE. The light source shall be shielded or controlled ~~[such]~~ IN A MANNER that it does not GENERALLY shine above or beyond the sign ~~[thereby contributing to light pollution]~~. On properties abutting or confronting residential property, all signage illumination light sources (including neon) must be turned off when the business is not open for public access or before 10:00 p.m. daily, whichever occurs first.

(e) Illumination (Internal) – ONLY Internal or backlit illumination SIGNS ~~[shall only be allowed in pole signs,]~~ COMPOSED OF individually mounted channel letters, or in box signs with opaque ~~[(non-plastic)]~~ face panels that utilize routed [$\frac{1}{2}$ " minimum] push-through text or overlay translucent text material. Individual letters shall be mounted directly to the building or on raceways OR TRACKS ATTACHED TO THE BUILDING ~~[mounted letters]~~ ARE PERMITTED. LIGHT BOXES WITH FLAT GRAPHICS AND/OR TRANSLUCENT FACE MATERIAL ARE NOT PERMITTED.

~~(f) Allowable Signage Calculations – Signage calculations shall include window signage of all types including neon signs. Symbols, letters and logos count towards total signage. Properties abutting or confronting residential property shall be limited to one (1) square foot of signage for each lineal foot of building frontage.]~~

~~[(g)]~~ Applicability - All new commercial signage, repairs to existing signage, changes to sign text, tenancy changes, property ownership changes, business name changes, or use changes must comply with this Ordinance. Whenever an existing sign is altered, it shall be modified to bring it into conformance with this chapter. Whenever any existing business/tenant/owner erects a new or additional sign, all signs on the premises pertaining to that business/tenant/owner shall be modified to bring them into conformance with this chapter. Any sign lawfully existing immediately prior to the effective date of this section, but which does not conform to the requirements as now constituted or as they may hereafter be amended from time to time, shall be removed or modified to come into compliance with this article within five (5) years from September 1, 2009. The Town may elect to require removal of signs erected more than twenty years prior to September 1, 2009, upon payment of just compensation based on the depreciated value. Signs installed by the Town of Kensington or signs at fire stations, places of worship and public libraries, any sign required by law or regulation by a governmental agency or utility company erected by, or on the order of a public officer or utility official in the performance of official duties, such as controlling traffic, identifying streets, warning of danger, or providing information are exempt from Section 6-104 titled Signs on Private Property.

~~{(h)}~~ (G) Additional Restrictions for Signs within the Historic Commercial District (Howard Avenue, Armory Avenue, Fawcett Street, St. Paul Street, and Montgomery Avenue)

The following types of signs are not permitted in the historic commercial district unless a variance is granted by the Council:

- Internally illuminated signs;
- Neon signs or neon decorations.

~~{(i)}~~ (H) Variance Procedure:

If a signage permit application is denied by the Town, an applicant may seek a Variance from [~~Section 6-104 (the Town supplement to Montgomery County Chapter 59-F)~~] THIS SECTION WITHIN 15 DAYS OF THE DATE OF DENIAL. A VARIANCE MAY BE GRANTED [~~where~~] WHEN the Council finds that:

- 1) strict application of the Town regulations would result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property or owner of such sign;
- 2) the variance is the minimum reasonably necessary to overcome any exceptional conditions; and
- 3) the variance can be granted without substantial impairment of the intent, purpose, and integrity of this Article. A variance decision must be based on consideration of:
 - a. one or more of the following elements: size, shape, color, design elements, location or cost of the sign;
 - b. the compatibility of the proposed sign with the surrounding property, the proximity of other signs, and the characteristics of the area; and
 - c. confirmation that the property and all other signs on the property are in conformance with the Article.
 - d. recommendation of the HPC if located in the Historic District and if requested by the Council or offered by the HPC.

4) CONTIGUOUS AND ABUTTING OWNERS MUST RECEIVE NOTICE OF THE VARIANCE APPLICATION PRIOR TO CONSIDERATION BY THE COUNCIL.

(I) CONDITIONS AND REVOCATION: The Council may impose conditions and terms on a sign variance, and MAY revoke any previously granted sign variance when it determines:

- 1) the applicant supplied inaccurate information to the Council, or
- 2) the terms of the variance set by the Council have not been met or have been violated. The Council may establish a detailed variance application, checklist and charge fees for the consideration of variances requests.

This provision shall not permit the Council to grant a variance allowing any sign prohibited under Montgomery County Chapter 59-F-7.

Section 5. BE IT FURTHER ORDAINED AND ENACTED by the Mayor and Council of the Town of Kensington that upon formal introduction of this proposed Ordinance, the Town Clerk shall distribute a copy to each Council member and shall maintain a reasonable number of copies in the office of the Town Clerk. The proposed ordinance or a fair summary thereof together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council, shall be:

- a. Posted at the town hall by the next business day;
- b. Posted on the official town website;
- c. Sent to those persons listed on the official town email list /mail subscription service; and
- d. Published once prior to the public hearing in the town newsletter or sent by substitute regular mail to newsletter circulation addresses.

The public hearing shall be held at least fifteen (15) days after introduction and may be held separately or in connection with a regular or special council meeting and may be adjourned from time to time. All persons interested shall have an opportunity to be heard. This Ordinance shall become effective on _____ provided that the ordinance or a fair summary thereof is:

- a. Posted at the town hall by the next business day for at least two (2) weeks;
- b. Posted on the official town website;
- c. Sent to those persons listed on the official town email list /mail subscription service; and
- d. Published once in the town newsletter.

INTRODUCED by the Mayor and Council of the Town of Kensington, Maryland at a public meeting assembled on the _____ day of _____ 2014.

ADOPTED by the Mayor and Council of the Town of Kensington, Maryland at a public meeting assembled on the _____ day of _____ 2014.

EFFECTIVE the _____ day of _____, 2014.

ATTEST:

TOWN OF KENSINGTON

By: _____
Susan Engels, Clerk-Treasurer

By: _____
Peter Fosselman, Mayor

APPROVED AS TO FORM:

Suellen M. Ferguson, Town Attorney